

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

GREGORY JOHNSON,

Defendant.

)
)
)
)
)
)
)

I.D. No. 1804008647

Submitted: October 18, 2019

Decided: October 24, 2019

Upon Defendant's Motion for Correction of Sentence

DENIED.

ORDER

Gregory Johnson, *pro se*, Smyrna, DE.

Maria T. Knoll, Esquire, Deputy Attorney General, Department of Justice, 820 N.
French St., Wilmington, Delaware, Attorney for the State.

WHARTON, J.

This 24th day of October, 2019, upon consideration of Defendant's Motion for Correction of Sentence and the record in this matter, it appears to the Court that:

1. Defendant Gregory Johnson ("Johnson") pled guilty to Possession of a Firearm During the Commission of a Felony ("PFDCF"), Reckless Endangering First Degree, Assault Second Degree, and Assault Third Degree. On June 21, 2018, he was sentenced as a habitual offender to 25 years of incarceration on the PFDCF charge.¹ He received suspended sentences of incarceration, followed by lesser periods of supervision on the other charges.²

2. Before the Court is Johnson's Motion for Correction of Sentence.³ In it, he claims that the Court failed to take into consideration multiple mitigating factors outside of the SENTAC Guidelines, and that extenuating circumstances, including a period of 22 years without a criminal conviction, should have "require[ed] the state and the court to reconsider the movant's **§ 4214(d) habitual Offender status**" (emphasis in original).⁴ Additionally, citing *Adams v. Governor of Delaware*,⁵ he contends that the court lacked jurisdiction in the plea proceedings so that his plea and sentence should be vacated.⁶

¹ D.I. 50.

² *Id.*

³ D.I. 58.

⁴ *Id.*

⁵ 2019 WL 1549857 (3d. Cir. Apr. 10, 2019).

⁶ *Id.*


3. Neither of these arguments has merit. SENTAC Guidelines are just that - guidelines - and are not binding on the sentencing judge. Similarly, SENTAC Statements of Policy are no more determinative of a defendant's sentence than the Guidelines themselves. Neither override the plain language of 11 *Del. C.* § 4214, which, in Johnson's case, because of his prior convictions, required the Court to declare him a habitual offender and to impose a sentence of 25 years on the PFDCF charge.

4. Further, Johnson reads too much into *Adams*. Similar arguments were made and rejected in *State v. Desmond*⁷ and *State v. Kane and McNeil*.⁸ For the same reasons set out in those cases, this Court rejects Johnson's claim here.

THEREFORE, Johnson's Motion for Correction of Sentence is **DENIED**.

IT IS SO ORDERED.

oc: Prothonotary
cc: Investigative Services



Ferris W. Wharton, J.

⁷ 2019 WL 1950426 (Del. Super. May 1, 2019).

⁸ 2019 WL 1468195 (Del. Super. Mar. 29, 2019).